

MASSACHUSETTS DEPARTMENT OF REVENUE SALES AND USE TAX

MOTOR VEHICLE PURCHASED IN THE COMMONWEALTH AND USED OUT OF STATE

FACTS: Ryan bought a car at a Massachusetts dealership in 1985 and took possession of it in the Commonwealth without paying the sales tax. He then drove the car to Connecticut where he registered it; in 1988, Ryan moved to Massachusetts and must now register the car here.

ISSUE I: What are the sales tax consequences of Ryan's purchase of the car if he does not register it in the Commonwealth?

ISSUE II: What are the consequences when Ryan later registers his car in Massachusetts?

DISCUSSION: Massachusetts imposes an excise on sales at retail of tangible personal property in the Commonwealth by any vendor. G.L. c. 64H, § 2. A "sale" is defined to include any transfer of possession for a consideration. *Id.*, § 1(12)(a). Ryan took possession of the car in Massachusetts. Consequently, Ryan owed sales tax here.

When a car is bought but not registered in the Commonwealth, the purchaser must file Form ST-7R (Sales and Use Tax Payment Form) with the Commissioner on or before the twentieth day of the month following the month in which the vehicle was bought. G.L. c. 62C, § 16. The tax may be paid at certain Department of Revenue [DOR] locations and at those Registry offices staffed with DOR personnel. For a listing of these locations contact:

Department of Revenue
Determination Bureau
100 Cambridge Street
Boston, MA 02204
(617) 727-2505
(617) 727-2510

Connecticut is a state which has a reciprocal agreement with Massachusetts granting credit for sales taxes paid. See TIR 81-2. If Ryan had registered the car in Connecticut and presented proof that a Massachusetts sales tax had been paid on it, Ryan would have received credit from Connecticut for the tax paid. Connecticut's tax rate is 7.5%; Ryan would therefore have paid Connecticut only the difference between the Connecticut and Massachusetts rates, i.e., 2.5%. *Id.* Ryan, however, presented no documentation to Connecticut showing that a sales tax had been paid on the car. He therefore paid the full Connecticut use tax, 7.5%, when he registered the car there.

Upon Ryan's move to Massachusetts, he must register his car here. To do so, he must show that "any tax due" under the Massachusetts sales tax has been paid. G.L. c. 64H, § 25. Ryan did not pay the sales tax when it was due in 1985. He must, therefore, pay that sales tax now; Ryan is also liable for interest and penalties from the date on which the tax should have been paid. G.L. c. 62C, §§ 32, 33. Ryan will receive no credit for the use tax paid to Connecticut. A credit for that tax could arise only under G.L. c. 64I, § 7(c), and applies only if Massachusetts use tax is owed. Ryan owes sales tax, not use tax. There is no credit available against Massachusetts sales tax for taxes paid to another jurisdiction.

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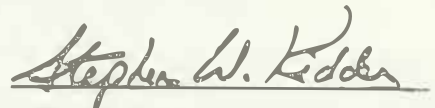
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DIRECTIVE I: Ryan bought and took possession of a motor vehicle in Massachusetts and is liable for the sales tax.

DIRECTIVE II: Since Ryan did not pay the tax when he bought the car, he must pay the sales tax when he now registers it, plus interest and penalties from the date the tax was originally due, i.e., the twentieth day of the month following the one in which the vehicle was originally purchased. Ryan will receive no credit for use tax paid in another jurisdiction.

REFERENCE: G.L. c. 62C, §§ 16, 32, 33; G.L. c. 64H, §§ 1(12)(a), 2, 25; G.L.c. 64I, § 7(c); TIR 81-2.

December 31, 1988



Stephen W. Kidder
Commissioner of Revenue

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This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 CMR 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.